

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 2, 5 and 8-15 are presently pending in this application, Claims 1, 2 and 5 having been amended, Claims 3, 4, 6 and 7 having been canceled, and Claims 8-15 having been added by the present amendment.

In the outstanding Office Action, Claims 1-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. (U.S. Patent 6,107,261) or JP 10-158696 (hereinafter “JP ‘696”) in view of Taylor et al. or Taylor et al. in view of JP ‘696.

First, Applicant acknowledges with appreciation the courtesy of a personal interview granted to Applicant’s representative on October 30, 2006. During the interview, amendments to Claims 1 and 5 were discussed and arguments in support of the claims were presented. The discussions during the interview are reiterated below.

Claims 1, 2, and 5 have been amended and Claims 8-15 have been added herein. These amendments and additions in the claims are believed to be clearly supported by the claims, specification and drawings as originally filed. Thus, no new matter is believed to be introduced. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work in a joint effort to derive mutually agreeable claim language. Applicant also respectfully requests that Claims 3, 4, 6 and 7 be canceled without prejudice.

Briefly recapitulating, Claim 1 as currently amended is directed to a cosmetic composition including (A) at least one surfactant which has an oxyethylene group and (B) a suppressant comprised of tert-butanol which suppresses smell change or odor generation caused by the at least one surfactant. The at least one surfactant is comprised of at least one material selected from the group consisting of materials represented by the following general

formula (1): $[R^1(OCH_2CH_2)_n-OSO_3]^- M^+$ where R^1 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms, n represents an integer of 1 to 30, and M represents Na, K, NH_4 , or triethanolamine; materials represented by the following general formula (2): $R^2CO-NH(CH_2CH_2O)_mH$ where R^2 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms, and m represents an integer of 1 to 10; materials represented by the following general formula (3): $R^3CO-N(CH_2CH_2OH)_2$ where R^3 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms.

Furthermore, the amount of tert-butanol is 0.01 to 1,000 ppm based on a total weight of the composition. By having such a suppressant, the cosmetic composition produces less smell change over time. On the other hand, a composition containing an excessive amount of tert-butanol, *i.e.*, more than 1,000 ppm, the composition produces unfavorable odor as shown in the experimental results provided in Applicant's Declaration under 37 C.F.R. § 1.132 submitted herewith

Taylor et al. is directed to an antibacterial composition, but does not teach "a suppressant comprising tert-butanol which suppresses smell change or odor generation caused by the at least one surfactant, wherein ... the amount of tert-butanol is *0.01 to 1,000 ppm* based on a total weight of the composition" as recited in amended Claim 1 (emphasis added). Specifically, Taylor et al. discusses a composition including an antibacterial agent, a surfactant, a hydric solvent such as n-butanol, and/or a hydrotrope. Taylor et al. states that "[t]he solvent and/or hydrotrope assists in solubilizing the antibacterial agent, and reduces the affinity of the antibacterial agent to enter surfactant micelles."¹ For this purpose, the composition of Taylor et al. contains hydric solvent or hydrotrope, and the amount of hydric

¹ Taylor et al., column 11, lines 32-34.

solvent is 0% to about 25% of hydric solvent, most preferably about 5 % to about 20%.

However, nowhere does Taylor et al. teach the use of a suppressant comprised of tert-butanol in a much smaller amount, *i.e.*, *0.01 to 1,000 ppm*, to suppress the smell change or odor generation. Nor does Taylor et al. discuss that the surfactant causes the smell change or odor generation. Therefore, the composition recited in Claim 1 is believed to be distinguishable from Taylor et al.

JP '696 is concerned with a transparent soap composition. Nevertheless, JP '696 fails to teach "a suppressant comprising tert-butanol which suppresses smell change or odor generation caused by the at least one surfactant, wherein ... the amount of tert-butanol is *0.01 to 1,000 ppm* based on a total weight of the composition" as recited in Claim 1 as currently amended (emphasis added). Specifically, JP '696 only describes a soap composition including tert-butanol as a solvent in an amount of *10 to 25 wt%*, which is remarkably higher than the claimed range. Example 8 of JP '696 describes a composition including lower alcohol in the amount of 23 %, and according to paragraph [0014], if the soap contains less than 10% of lower alcohol, the ingredients are not uniformly solubilized. As such, the composition of JP '696 contains an excessive amount of tert-butanol, and thus the composition is believed to produce the odor of tert-butanol itself, as discussed in Applicant's specification, page 5, lines 16-17. Also, nowhere does JP '696 discuss the smell change or odor generation caused by the surfactant. Hence, the composition of Claim 1 is believed to be distinguishable from JP '696 as well.

Because neither Taylor et al. nor JP '696 discloses the suppressant recited in Claim 1 as currently amended, even the combined teachings of these cited references are not believed to render the composition recited in Claim 1 obvious.

Turning now to Claim 5, Claim 5 as currently amended is directed to a method for suppressing smell change or odor generation with passage of time in a cosmetic. In this

method, a composition including at least one surfactant having an oxyethylene group is prepared, and a suppressant comprised of tert-butanol is added to the composition and suppresses smell change or odor generation caused by the at least one surfactant. The at least one surfactant is comprised of at least one material selected from the group consisting of materials represented by the following general formula (1): $[R^1(OCH_2CH_2)_nOSO_3]^-M^+$ where R^1 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms, n represents an integer of 1 to 30, and M represents Na, K, NH_4 , or triethanolamine; materials represented by the following general formula (2): $R^2CO-NH(CH_2CH_2O)_mH$ where R^2 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms, and m represents an integer of 1 to 10; materials represented by the following general formula (3): $R^3CO-N(CH_2CH_2OH)_2$ where R^3 represents a linear or branched alkyl group having 7 to 21 carbon atoms or a linear or branched alkenyl group having 7 to 21 carbon atoms. Furthermore, tert-butanol is added in an amount of 0.01 to 1,000 ppm based on a total weight of the composition. By adding tert-butanol in such an amount, undesired odor or smell change over time is effectively suppressed, as shown in the attached Declaration.

As discussed above, Taylor et al. and JP '696 describe an antibacterial composition and a transparent soap composition, respectively. However, neither Taylor et al. nor JP '696 teaches "adding a suppressant comprising tert-butanol to said composition, the suppressant suppressing smell change or odor generation caused by the at least one surfactant, wherein ... tert-butanol is added in an amount of 0.01 to 1,000 ppm based on a total weight of the composition" as recited in Claim 5 as currently amended (emphasis added). On the other hand, as discussed during the interview, Taylor et al. merely describes a composition including a surfactant and a hydric solvent for *solubilizing* the antibacterial agent, and JP

‘696 only discusses a soap composition including *a solvent* such as tert-butanol in an amount of 10 to 25 wt%. Claim 5 is thus believed to be distinguishable from both Taylor et al. and JP ‘696.

For the foregoing reasons, Claims 1 and 5 are believed to be allowable. Furthermore, since Claims 2 and 8-15 depend from either Claim 1 or 5, substantially the same arguments set forth above also apply to these dependent claims. Hence, Claims 2 and 8-15 are believed to be allowable as well.

Finally, Applicant respectfully requests that the Information Disclosure Statement filed December 9, 2003 be duly considered and acknowledged. A copy of the date-stamped filing receipt and the form PTO-1449 is attached herewith for the Examiner’s convenience.

In view of the amendments and discussions presented above, Applicant respectfully submits that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard D. Kelly
Attorney of Record
Registration No. 27,757

Akihiro Yamazaki
Registration No. 46,155

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

RDK/AY/YO/mda
I:\ATTY\YO\24\240114\240114US_AME_MODFD.DOC